

**Executive Summary – Enforcement Matter – Case No. 41955**

**Arkema Inc.**

**RN100210301**

**Docket No. 2011-1069-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Arkema Crosby Plant, 18000 Crosby Eastgate Road, Crosby, Harris County

**Type of Operation:**

Chemical plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 23, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$20,300

**Amount Deferred for Expedited Settlement:** \$4,060

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$16,240

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41955**

**Arkema Inc.**

**RN100210301**

**Docket No. 2011-1069-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** April 13, 2011

**Date(s) of NOE(s):** June 13, 2011

***Violation Information***

Failed to maintain the temperature above 1,480 degrees Fahrenheit for the thermal oxidizer, EPN 43-TO-1STK, and 1,600 degrees Fahrenheit for thermal oxidizer, Emission Point Numbers ("EPN") 44-TO-1STK. Specifically, from October 1, 2009 through June 19, 2010, the temperature for oxidizer EPN 43-TO-1STK was not maintained to be at least 1,480 degrees Fahrenheit for a total of 30 hours and 30 minutes and from August 24, 2009 through July 30, 2010, the temperature for oxidizer EPN 44-TO-1STK was not maintained to be at least 1,600 degrees Fahrenheit for a total of 65 hours and 30 minutes [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Federal Operating Permit No. O1554, Standard Terms and Conditions No. 8, New Source Review Permit No. 6271 Special Conditions Nos. 22.A. and B., and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Executive Director recognizes that by August 22, 2010, the Respondent mechanically adjusted the thermal oxidizers' control logic system to prevent the recurrence of deviations at the thermal oxidizers, EPN 43-TO-1STK and 44-TO-1STK.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Raymond Marlow, Enforcement Division, Enforcement Team 5, MC R-10, (409) 899-8785; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Executive Summary – Enforcement Matter – Case No. 41955**

**Arkema Inc.**

**RN100210301**

**Docket No. 2011-1069-AIR-E**

**Respondent:** Theodore M. Cour, II, Plant Manager, Arkema Inc., 18000 Crosby  
Eastgate Road, Crosby, Texas 77532

Denise Hubbard, Regional Director of Manufacturing, Arkema Inc., 18000 Crosby  
Eastgate Road, Crosby, Texas 77532

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	20-Jun-2011	<b>Screening</b>	28-Jun-2011	<b>EPA Due</b>	
	<b>PCW</b>	28-Jun-2011				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Arkema Inc.		
<b>Reg. Ent. Ref. No.</b>	RN100210301		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	41955	<b>No. of Violations</b>	1
<b>Docket No.</b>	2011-1069-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Raymond Marlow
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$17,500
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	41.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$7,175
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Notes: Enhancement for one NOV with same/similar violations, nine NOVs for dissimilar violations, and one Agreed Order with denial of liability. Reduction for two Notices of Intent to conduct an audit.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$4,375
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$139  
Approx. Cost of Compliance \$2,000  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$20,300
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$20,300
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$20,300
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$4,060
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$16,240
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Screening Date 28-Jun-2011

Docket No. 2011-1069-AIR-E

PCW

Respondent Arkema Inc.

Policy Revision 2 (September 2002)

Case ID No. 41955

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100210301

Media [Statute] Air

Enf. Coordinator Raymond Marlow

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	9	18%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 41%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

Enhancement for one NOV with same/similar violations, nine NOVs for dissimilar violations, and one Agreed Order with denial of liability. Reduction for two Notices of Intent to conduct an audit.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 41%

Screening Date 28-Jun-2011

Docket No. 2011-1069-AIR-E

PCW

Respondent Arkema Inc.

Policy Revision 2 (September 2002)

Case ID No. 41955

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN100210301

Media [Statute] Air

Enf. Coordinator Raymond Marlow

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Federal Operating Permit No. O1554, Standard Terms and Conditions No. 8, New Source Review Permit No. 6271 Special Conditions Nos. 22.A. and B., and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain the temperature above 1,480 degrees Fahrenheit for the thermal oxidizer, Emission Point Number ("EPN") 43-TO-1STK, and 1,600 degrees Fahrenheit for thermal oxidizer, EPN 44-TO-1STK. Specifically, from October 1, 2009 through June 19, 2010, the temperature for oxidizer EPN 43-TO-1STK was not maintained to be at least 1,480 degrees Fahrenheit for a total of 30 hours and 30 minutes and from August 24, 2009 through July 30, 2010, the temperature for oxidizer EPN 44-TO-1STK was not maintained to be at least 1,600 degrees Fahrenheit for a total of 65 hours and 30 minutes.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 7

20 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$17,500

Seven quarterly events are recommended, three quarters for EPN 43-TO-1STK and four quarters for EPN 44-TO-1STK.

## Good Faith Efforts to Comply

25.0% Reduction

\$4,375

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

x

N/A

(mark with x)

Notes

Corrective actions were reported completed on August 22, 2010, prior to the June 13, 2011 Notice of Enforcement.

Violation Subtotal \$13,125

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$139

Violation Final Penalty Total \$20,300

This violation Final Assessed Penalty (adjusted for limits) \$20,300

# Economic Benefit Worksheet

**Respondent** Arkema Inc.  
**Case ID No.** 41955  
**Reg. Ent. Reference No.** RN100210301  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,000	24-Aug-2009	22-Aug-2010	0.99	\$7	\$133	\$139
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Expense to make mechanical adjustment to the thermal oxidizers control logic system during rainfall events, power surges, etc. Date required is the earliest date of noncompliance. Final date is the date corrective actions were completed.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,000

**TOTAL** \$139



# Compliance History

Customer/Respondent/Owner-Operator:	CN600124044 Arkema Inc.	Classification:	Rating: 2.47
		AVERAGE	
Regulated Entity:	RN100210301 ARKEMA CROSBY PLANT	Classification: AVERAGE	Site Rating: 1.72

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0461W
	AIR OPERATING PERMITS	PERMIT	1554
	POLLUTION PREVENTION PLANNING	ID NUMBER	P00208
	STORMWATER	PERMIT	TXR05AA07
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD043750512
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	30458
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1011931
	VOLUNTARY CLEANUP PROGRAM	ID NUMBER	644
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW230
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW122
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	58385
	AIR NEW SOURCE PERMITS	PERMIT	6271
	AIR NEW SOURCE PERMITS	REGISTRATION	16080
	AIR NEW SOURCE PERMITS	REGISTRATION	33865
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0461W
	AIR NEW SOURCE PERMITS	AFS NUM	4820100110
	AIR NEW SOURCE PERMITS	REGISTRATION	78893
	AIR NEW SOURCE PERMITS	REGISTRATION	81308
	AIR NEW SOURCE PERMITS	REGISTRATION	90116
	AIR NEW SOURCE PERMITS	REGISTRATION	83105
	AIR NEW SOURCE PERMITS	REGISTRATION	91175
	WATER LICENSING	LICENSE	1011931
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG0461W

Location: 18000 CROSBY EASTGATE RD, CROSBY, TX, 77532

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: June 28, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 28, 2006 to June 28, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Raymond Marlow, P.G. Phone: (409) 899-8785

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period?       | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No  |
| 3. If Yes, who is the current owner/operator?  | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)?  | N/A |
| 5. When did the change(s) in owner or operator occur?  | N/A |
| 6. Rating Date: 9/1/2010 Repeat Violator:  | NO  |

#### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 07/13/2007

ADMINORDER 2006-1910-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(7)(A)

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failure to prevent unauthorized emissions during a fire that occurred on June 20, 2006.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 10/10/2006 (510487)

2 10/06/2006 (513222)

3 10/06/2006 (513235)

4 11/08/2006 (518549)

5 02/06/2007 (533001)

6 01/18/2007 (535693)

7 01/18/2007 (536145)

8 01/25/2007 (536615)

9 01/29/2007 (536627)

10 02/28/2007 (541760)

11 04/12/2007 (543002)

12 04/12/2007 (543005)

13 11/20/2007 (600149)

14	11/20/2007	(600183)
15	11/19/2007	(608719)
16	08/28/2008	(610523)
17	02/13/2008	(615454)
18	02/13/2008	(615481)
19	04/29/2008	(639550)
20	04/29/2008	(639557)
21	11/17/2008	(706297)
22	11/17/2008	(706298)
23	11/25/2008	(708435)
24	03/04/2009	(722128)
25	01/20/2009	(722589)
26	01/20/2009	(722592)
27	02/16/2009	(725833)
28	02/16/2009	(725836)
29	09/03/2009	(759311)
30	07/31/2009	(760954)
31	07/30/2009	(760956)
32	07/24/2009	(762136)
33	11/20/2009	(782226)
34	03/24/2010	(784794)
35	01/19/2010	(787681)
36	02/01/2010	(787991)
37	04/28/2010	(799212)
38	04/28/2010	(799219)
39	04/30/2010	(800484)
40	05/05/2011	(864820)
41	11/29/2010	(877696)
42	06/13/2011	(877937)
43	01/25/2011	(886868)

44 03/21/2011 (886875)

45 02/22/2011 (891995)

46 02/25/2011 (893283)

47 02/24/2011 (894991)

48 05/20/2011 (907521)

49 05/27/2011 (907867)

50 05/27/2011 (907868)

51 05/05/2011 (915273)

52 06/13/2011 (921416)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/06/2007 (533001)CN600124044

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)  
30 TAC Chapter 335, SubChapter E 335.112(a)(8)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(i)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174

Description: An inspection log for the hazardous waste container storage areas for January 19, 2006 was not found in the facility files.

Date: 08/29/2008 (610523) CN600124044

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(F)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP O-01554 OP

Description: Failure to conduct quarterly opacity checks.

Self Report? YES Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.340(j)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP No.O-01554 OP

Description: Failure to maintain run time meters in working condition.

Self Report? YES Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.345(f)(6)(B)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP No. O-01554 OP

Description: Failure to maintain records of engine run times during three emergency situations.

Self Report? YES Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.345(f)(10)(B)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP No. O-01554 OP

Description: Failure to maintain records of start and end times for test runs.

Self Report? YES Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

FOP No. O-01554 OP  
NSR Permit No. 6271 PERMIT

Description: Failure to maintain proper records that demonstrates compliance with Molten Diol tank filling conditions for units 30-T61ASTK and 30-T61BSTK.

Self Report? YES Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP No. O-01554 OP  
NSR Permit No. 6271 PERMIT

Description: Failure to include two valves between a nitrogen purge line and t-iso-amylene loading line in the LDAR program.

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)  
5C THSC Chapter 382 382.085(b)  
FOP No. O-01554 OP  
NSR Permit No. 6271 PERMIT

Description: Failure to cap two open-ended lines identified by tag numbers 70447 and 70448.

Self Report? YES Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP Permit No. O-01554 OP  
NSR Permit No. 6271 PERMIT

Description: Failure to maintain records that demonstrates compliance with some authorized short term and annual emission rates for specific storage tanks (17-T-20STK, 17-T-22STK, 17-T-24STK, and 17-T-26STK) in the CPU emission unit.

Self Report? YES Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP No. O-01554 OP  
NSR Permit No. 6271 PERMIT

Description: Failure to maintain records for the performance of the maintenance activities for Units 43-TO-1STK and 44-TO-1STK.

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP No. O-01554 OP  
NSR Permit No. 6271 PERMIT

Description: Failure to maintain adequate records to demonstrate quarterly open ended line tracking and recordkeeping.

Self Report? YES Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP No. O-01554 OP  
NSR Permit No. 6271 PERMIT

Description: Failure to prevent exceedence of 14 days of total bypass time for thermal oxidizers 43-TO-1STK.

Self Report? YES Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP No. O-01554 OP  
NSR Permit No. 6271 PERMIT

Description: Failure to prevent exceedence of 14 days of total bypass time for thermal oxidizers 44-TO-1STK.

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)

FOP No. O-01554 OP

Description: Failure to report two deviations on the semi-annual deviation report.

Date: 07/31/2009 (760954)

CN600124044

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(ii)

Description: Missing daily tank inspection log.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter Q 335.474  
30 TAC Chapter 335, SubChapter Q 335.479

Description: The plan is overdue for renewal.

Date: 01/20/2010 (787991)

CN600124044

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 331, SubChapter D 331.64(e)(2)

Description: Failure to conduct or run a temperature log, noise log, oxygen activation log, or

other approved log at least once every five years to test for fluid movement  
along the borehole on WDW-230 as required by 30 TAC 331.64(e)(2).

Date: 03/24/2010 (784794)

CN600124044

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
SC No. 28 PERMIT  
Special Terms and Conditions No. 8 OP

Description: Failed to maintain records of generator (EPN GRP-GEN) run-time during power  
outages associated with Maintenance, Startup, Shutdown (MSS) activities from  
June 29-30, 2009. Violation Category C3

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Conditions No. 6 PERMIT  
Special Terms and Conditions No. 8 OP

Description: Failed to vent Tank 17-T-28 to Scrubber (FIN 17 FS 90). Violation Category B19 g  
(1)3.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Terms and Conditions No. 15 OP

Description: Failed to maintain follow-up refrigeration system tracking documentation on leaks  
repaired during this compliance period, Violation Category C3.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
SC 22A and 22B PERMIT  
Special Terms and Condition No. 8 OP

Description: Failed to maintain the minimum firebox temperatures for the Thermal Oxidizers.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
SC 15F PERMIT  
Special Terms and Conditions No. 8 OP

Description: Failed to conduct quarterly LDAR monitoring of BPU unit components associated

with tanks (4T-26, 4T-51, and 4T-68) during the fourth quarter of 2008

Date: 03/04/2011 (886875) CN600124044  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 331, SubChapter D 331.64(h)(2)  
PP.VIII.Monitoring and Testing OP  
Description: Failure to monitor the pressure buildup in the injection zone annually via a pressure fall-off test.

Date: 05/20/2011 (907521) CN600124044  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter E 335.112(a)(1)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT B 265.15(d)  
Description: Failure to record the time of inspections in the tank inspection log.

Date: 05/27/2011 (907867) CN600124044  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 331, SubChapter D 331.63(g)  
PROVISION VII.A. PERMIT  
Description: Failure to test and calibrate the WDW-122 flow transmitter, injection pressure, and annulus pressure gauges during the fourth quarter of 2010

Date: 05/27/2011 (907868) CN600124044  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 331, SubChapter D 331.63(g)  
PROVISION VII.A. PERMIT  
Description: Failure to test and calibrate the WDW-230 flow transmitter, injection pressure, and annulus pressure gauges during the fourth quarter of 2010

Date: 06/13/2011 (877937) CN600124044  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Description: Failure to report three deviations on the deviation report in the period February 21, 2009 through August 20, 2009. (Category B3)

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 117, SubChapter B 117.345(f)(6)(B)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
ST&C 6 OP  
Description: Failure to maintain records of the engine run times during five emergency situations totaling 12 hours from August 21, 2009 through February 20, 2010. (Category B3)

F. Environmental audits.

Notice of Intent Date: 02/09/2007

No DOV Associated

Notice of Intent Date: 02/01/2010

No DOV Associated

- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ARKEMA INC.  
RN100210301**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2011-1069-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Arkema Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a chemical plant at 18000 Crosby Eastgate Road near Crosby, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 18, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty Thousand Three Hundred Dollars (\$20,300) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Sixteen Thousand Two Hundred

Forty Dollars (\$16,240) of the administrative penalty and Four Thousand Sixty Dollars (\$4,060) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that by August 22, 2010, the Respondent mechanically adjusted the thermal oxidizers' control logic system to prevent the recurrence of deviations at the thermal oxidizers, Emission Point Numbers ("EPN") 43-TO-1STK and 44-TO-1STK.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to maintain the temperature above 1,480 degrees Fahrenheit for the thermal oxidizer, EPN 43-TO-1STK, and 1,600 degrees Fahrenheit for thermal oxidizer, EPN 44-TO-1STK, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Federal Operating Permit No. O1554, Standard Terms and Conditions No. 8, New Source Review Permit No. 6271 Special Conditions Nos. 22.A. and B., and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on April 13, 2011. Specifically, from October 1, 2009 through June 19, 2010, the temperature for oxidizer EPN 43-TO-1STK was not maintained to be at least 1,480 degrees Fahrenheit for a total of 30 hours and 30 minutes and from August 24, 2009 through July 30, 2010, the temperature for oxidizer EPN 44-TO-1STK was not maintained to be at least 1,600 degrees Fahrenheit for a total of 65 hours and 30 minutes.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

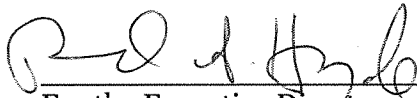
1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Arkema Inc., Docket No. 2011-1069-AIR-E" to:  
  
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

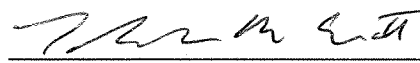
10/6/11  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

8/4/11  
\_\_\_\_\_  
Date

THEODORE M. COOK II  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Arkema Inc.

PLANT MANAGER  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.